

AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1200

Introduced by Assembly Member Hayashi

February 27, 2009

An act to amend Section 758.5 of the Insurance Code, relating to motor vehicle insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, as amended, Hayashi. Motor vehicle insurance: direct repair programs.

Existing law prohibits insurers from requiring that an automobile be repaired at a specific automotive repair dealer. Under existing law, an insurer may suggest or recommend a specific automotive repair dealer under certain specified circumstances.

~~This bill would state that nothing in that provision restricts the ability of an insurer to explain benefits the insurer provides as part of the claims process.~~ *This bill would authorize an insurer to provide a claimant with specific truthful and nondeceptive information regarding the services and benefits available to the claimant during the claims process pursuant to the policy, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Claimants whose vehicles have been damaged in accidents*
4 *should be fully informed regarding the benefits and services offered*
5 *by insurance companies as part of the claims process. Those*
6 *benefits and services include, but are not limited to, policy terms*
7 *regarding repair warranties, the type of replacement parts used*
8 *in the repair, the anticipated time to repair the damaged vehicle,*
9 *the anticipated costs associated with the repairs, and the quality*
10 *of the workmanship.*

11 *(b) Claimants benefit because being informed about the benefits*
12 *and services offered by insurance companies allows them to make*
13 *meaningful choices regarding the repair process and the*
14 *automotive repair dealer to be used.*

15 *(c) Insurers should present that information in a truthful and*
16 *nondeceptive manner.*

17 ~~SECTION 1.~~

18 *SEC. 2. Section 758.5 of the Insurance Code is amended to*
19 *read:*

20 758.5. (a) No insurer shall require that an automobile be
21 repaired at a specific automotive repair dealer, as defined in Section
22 9880.1 of the Business and Professions Code. ~~Nothing in this~~
23 ~~section restricts the ability of an insurer to explain benefits the~~
24 ~~insurer provides as part of the claims process.~~

25 (b) (1) ~~No~~ Subject to paragraph (2), no insurer shall suggest
26 or recommend that an automobile be repaired at a specific
27 automotive repair dealer unless either of the following applies:

28 (A) A referral is expressly requested by the claimant.

29 (B) The claimant has been informed *orally or* in writing of the
30 right to select the automotive repair dealer.

31 (2) *An insurer may provide the claimant with specific truthful*
32 *and nondeceptive information regarding the services and benefits*
33 *available to the claimant during the claims process pursuant to*
34 *the policy. This may include, but is not limited to, information*
35 *about the repair warranties offered, the type of replacement parts*
36 *to be used, the anticipated time to repair the damaged vehicle, and*
37 *the quality of the workmanship available to the claimant.*

38 ~~(2) If the recommendation~~

(3) If an insurer's recommendation of an automotive repair dealer is accepted by the claimant, the insurer shall cause the damaged vehicle to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy or as is otherwise allowed by law. If the recommendation of an automotive repair dealer is done orally, and if the oral recommendation is accepted by the claimant, the insurer shall provide the information contained in this paragraph, as noted in the statement below, to the claimant at the time the recommendation is made. The insurer shall ~~send the written mail~~ or provide the notice required by this paragraph within five calendar days from the ~~oral~~ acceptance of the recommendation. The written notice required by this paragraph shall include the following statement plainly printed in no less than 10-point type: "WE ARE PROHIBITED BY LAW FROM REQUIRING THAT REPAIRS BE DONE AT A SPECIFIC AUTOMOTIVE REPAIR DEALER. YOU ARE ENTITLED TO SELECT THE AUTO BODY REPAIR SHOP TO REPAIR DAMAGE COVERED BY US. WE HAVE RECOMMENDED AN AUTOMOTIVE REPAIR DEALER THAT WILL REPAIR YOUR DAMAGED VEHICLE. WE RECOMMEND YOU CONTACT ANY OTHER AUTOMOTIVE REPAIR DEALER YOU ARE CONSIDERING TO CLARIFY ANY QUESTIONS YOU MAY HAVE REGARDING SERVICES AND BENEFITS. IF YOU AGREE TO USE OUR RECOMMENDED AUTOMOTIVE REPAIR DEALER, WE WILL CAUSE THE DAMAGED VEHICLE TO BE RESTORED TO ITS CONDITION PRIOR TO THE LOSS AT NO ADDITIONAL COST TO YOU OTHER THAN AS STATED IN THE INSURANCE POLICY OR AS OTHERWISE ALLOWED BY LAW. IF YOU EXPERIENCE A PROBLEM WITH THE REPAIR OF YOUR VEHICLE, PLEASE CONTACT US IMMEDIATELY FOR ASSISTANCE."

(c) Except as provided in subparagraph (A) of paragraph (1) of subdivision (b) or paragraph (2) of subdivision (b), after the claimant has chosen an automotive repair dealer, the insurer shall not suggest or recommend that the claimant select a different automotive repair dealer.

(d) Any insurer that, by the insurance contract, suggests or recommends that an automobile be repaired at a particular automotive repair dealer shall also do both of the following:

1 (1) Prominently disclose the contractual provision in writing to
2 the insured at the time the insurance is applied for and at the time
3 the claim is acknowledged by the insurer.

4 (2) If the claimant elects to have the vehicle repaired at the shop
5 of his or her choice, the insurer shall not limit or discount the
6 reasonable repair costs based on charges that would have been
7 incurred had the vehicle been repaired by the insurer's chosen
8 shop.

9 (e) For purposes of this section, "claimant" means a first-party
10 claimant or insured, or a third-party claimant who asserts a right
11 of recovery for automotive repairs under an insurance policy.

12 (f) The powers of the commissioner to enforce this section shall
13 include those granted in Article 6.5 (commencing with Section
14 790) of Chapter 1 of Part 2 of Division 1.

15 (g) *The changes to this section made by the act enacted during*
16 *the 2009–10 Regular Session that amended this section shall only*
17 *apply to actions filed on or after January 1, 2010.*